

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)
)
Replacement of Part 90 by)
Part 88 to Revise the Private)
Land Mobile Radio Services and)
Modify the Policies Governing Them)
)
and)
)
Examination of Exclusivity and)
Frequency Assignment Policies)
of the Private Land Mobile Radio)
Services)

PR Docket No. 92-235

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To: The Commission

**SUPPLEMENTAL COMMENTS
OF THE
AMERICAN PETROLEUM INSTITUTE**

THE AMERICAN PETROLEUM INSTITUTE

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SUMMARY

The service consolidation proposed by the Commission should result in the creation of up to five pools: Industrial Safety Service, Emergency Response Safety Service, Non-Commercial Radio Service, Specialized Mobile Radio Service, and General Category. Petroleum, pipeline and other industrial users who employ their systems for essential safety communications and are required by federal, state or local regulations or industry codes or standards, for safety considerations, to provide redundant or highly reliable communications to support their operations would be members of the Industrial Safety Service. The United States House of Representatives and United States Senate have recognized the unique requirements of the systems that would be included in the Industrial Safety Service. These Industrial Safety systems need coordination in their own pool.

Any criteria for the certification of frequency coordinators must be comprehensive and prudently selected. Standards for frequency coordinators should be enacted to ensure a uniform quality of coordination service and to prevent potentially hazardous interference and chaos. These standards must be easily decipherable and subject to swift enforcement by the Commission.

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To: The Commission

**SUPPLEMENTAL COMMENTS
OF THE
AMERICAN PETROLEUM INSTITUTE**

The American Petroleum Institute ("API"), by its attorneys, hereby submits these Supplemental Comments concerning consolidation of the Private Land Mobile Radio Services ("PLMRS") in the context of the request for an industry consensus plan as described in the Report and Order adopted by the Federal Communications Commission ("Commission" or "FCC") in the above-styled proceeding on June 15, 1995.^{1/}

^{1/} 60 Fed. Reg. 37148 (July 19, 1995).

I. PRELIMINARY STATEMENT

1. API is a national trade association representing approximately 350 companies involved in all phases of the petroleum and natural gas industries, including exploration, production, refining, marketing, and transportation of petroleum, petroleum products and natural gas. Among its many activities, API acts on behalf of its members as spokesperson before federal and state regulatory agencies. The API Telecommunications Committee is one of the standing committees of the organization's Information Systems Committee. The Telecommunications Committee evaluates and develops responses to state and federal proposals affecting telecommunications facilities used in the oil and gas industries.

2. Reliable two-way land mobile radio is an essential tool in almost every phase of the oil and gas industries. Communications must be maintained during exploration activities for the direction of personnel and equipment, control of and synchronization of multiple geophysical acoustical signal sources for oil and gas exploration, as well as for telemetering geophysical data. Drilling operations, by their very nature, involve hazards that can be minimized with reliable two-way mobile radio

communications. After production is established, mobile radio continues to play a critical role in providing communications for the management of production sites where careful supervision must be maintained over the operation of valves, pumps, compressors and separation equipment. Operation of the extensive pipeline gathering systems and long-distance, crude, petroleum products and natural gas pipelines would not be possible without reliable two-way mobile radio communications. These same types of reliable communications are absolutely necessary in petroleum refineries where the safety of personnel demands clear channels of communication. Even in the marketing and distribution of these energy sources, mobile radio continues to play an important role in the transfer of natural gas at city gates, and the loading and delivery by rail and tank trucks of refined petroleum products to industrial, commercial and residential customers.

3. The petroleum and natural gas industries were pioneers in the use of two-way mobile radio for industrial applications. In recent years, some two-way mobile radio communications have been served by other than the traditional private system. Even though use of private, internal systems may be supplemented with cellular and Specialized Mobile Radio ("SMR") systems, where those

services are available and can meet some needs, there remains a very critical requirement for privately-owned and operated two-way mobile radio systems in these industries. The energy industries also expect to be users of new Personal Communication Systems ("PCS") in areas where these services are offered and can be utilized for selected functions. Notwithstanding the advent of these additional communication options, the oil and gas industries will continue to be large users of private land mobile radio systems for several reasons. First, public switched systems frequently become incapacitated during emergency conditions because of peak subscriber demand. Private systems are essential in these circumstances to insure the ongoing safe execution of energy operations where hazardous conditions could develop without reliable communications. Moreover, private systems will continue to be needed in areas where there are inadequate or no public telecommunications facilities.

4. API remains excited about the prospect for enhanced spectrum efficiency that will eventually result from the introduction of new technologies in the PLMRS. API has actively participated in the spectrum refarming process from its inception. API was one of six parties that submitted Joint Comments and Joint Reply Comments in

response to the Commission's Notice of Inquiry in PR Docket No. 91-170 that addressed spectrum efficiency in the PLMRS. In 1993, API submitted Comments and Reply Comments in response to the Notice of Proposed Rule Making ("Notice") adopted by the Commission on October 8, 1992 that initiated this proceeding.^{2/} Throughout this proceeding, API has advocated that extremely careful analysis and a prudent "due diligence" examination of the issues occur before final decisions are made and implemented.

5. In the Notice, the Commission proposed to consolidate the existing radio services into three specific pools: Public Safety Radio Service; Non-Commercial Radio ("NCR") Service; and Specialized Mobile Radio ("SMR") Service. The Commission also proposed that a fourth allocation be made to a new General Category Pool that would have allocated to it frequency assignments available for use by those proposing to operate their own radio systems, as well as by private carriers.

6. The Commission decided in the Order to consolidate the twenty private land mobile radio ("PLMR") services into

^{2/} 57 Fed. Reg. 54034 (November 16, 1992).

2-4 pools.^{3/} The Commission also gave the PLMR community until November 20, 1995 to submit a consensus plan for effectuating the consolidation. Beyond recommending that the consensus plan include a Public Safety pool, the Order did not provide any further specific direction as to which pools should be established. The industry, through an exhaustive series of meetings, has been unable to produce such a consensus plan. Consolidation of the radio services, if not properly designed, could result in the chaotic and unsafe implementation and operation of PLMRS systems. In light of the importance of this issue, API felt compelled to submit these Supplemental Comments.

II. SUPPLEMENTAL COMMENTS

A. Service Consolidation Should Accommodate up to Five User Pools

7. API does not support the extreme reduction or consolidation of the twenty radio services into the minimum 2-4 pools suggested by the Commission. Notwithstanding some of the reported interservice frequency sharing difficulties, the current service organization and frequency coordination

^{3/} Order at ¶¶ 50-52.

system has functioned quite well.^{4/} Yet, because the Order clearly indicates that consolidation is to occur, and in view of the perceived benefits, API advocates a workable consolidation plan which includes the creation of the following pools:

- (1) Industrial Safety Service: The Industrial Safety Service pool should include communications systems servicing: pipelines; refineries; oil and gas production; petrochemical plants; hazardous material transport, docking and loading operations; railroads; public utilities; and other industrial users who employ their systems for essential safety communications and are required by federal, state or local regulations or industry codes or standards, for safety considerations, to provide redundant or highly reliable communications to support their operations.^{5/} For

^{4/} Frequency coordination for the Petroleum Radio Service is currently managed by the Petroleum Frequency Coordinating Committee ("PFCC"), a unit of API's Telecommunications Committee.

^{5/} The Manufacturers Radio Service and Forestry Radio Service share the use of many VHF and UHF channels with the Petroleum Radio Service. Nationwide, the authorizations for use of these channels are inextricably intertwined among licensees in these three services. As such, API submits that those channels should clearly be designated for the
(continued...)

example, Occupational Safety and Health Administration ("OSHA") Report 3033 specifically requires refineries, petrochemical plants, oil pipelines and other facilities to maintain complex, reliable primary and secondary communications systems.^{6/}

^{5/} (...continued)

Industrial Safety Service Pool, and should continue to be available to eligibles in the Petroleum, Manufacturers and Forestry Radio Services.

^{6/} An effective way for medium to large facilities to enhance coordination and communication during emergencies within the plant and with local community organizations is by establishing and equipping an emergency control center. The emergency control center should be located in a safe zone so that it could be occupied throughout the duration of an emergency. The center should serve as the major communications link between the on-scene incident commander and plant or corporate management as well as with local community officials. The communications equipment in the emergency control center should include a network to receive and transmit information by telephone, radio, or other means. It is important to have a backup communications network in case of power failure or if one communication means fails. The center also should be equipped with the plant layout; community maps; utility drawings, including water for fire extinguishing; emergency lighting; appropriate reference materials such as a government agency notification list, company personnel phone list, SARA Title III reports and material safety data sheets, emergency plans and procedures manual; a listing with the location of emergency response equipment and mutual aid information; and access to meteorological data and any dispersion modeling data.

(continued...)

- (2) Emergency Response Safety Service: Police, Fire and other emergency response safety services.

- (3) Non-Commercial Radio ("NCR") Service: The NCR pool is for all current private radio services not covered by the Industrial Safety Service and Emergency Response Safety Service pools. NCR spectrum should not be allocated to commercial radio services. A vast amount of commercial spectrum is already allocated in other bands to PCS, cellular, satellite, SMR and other commercial services. Channels newly created by the spectrum refarming plan from existing PLMRS spectrum should remain "private."

^{6/}(...continued)

Process Safety Management Guidelines for Compliance, OSHA 3113, at 25 (1992).

See also, 49 C.F.R. § 194.107(d)(1)(ii); 49 C.F.R. § 194, Appendix A; 49 C.F.R. § 195.401(a); 49 C.F.R. § 195.402(c); 49 C.F.R. § 195.408. These Department of Transportation regulations for high-reliability communications systems and secondary communications systems cover the operation of high pressure natural gas pipelines. Additionally, the Environmental Protection Agency ("EPA") is in the process of establishing new risk management programs to deal with off site consequences of hazardous material spills and releases. Implicitly, and perhaps specifically, EPA will require the affected industries to provide communications links to in-house emergency maintenance crews and to government employees. EPA is slated to promulgate these rules by March 29, 1996. Section 112R, Accidental Release Provisions of the Clean Air Act.

(4) Specialized Mobile Radio ("SMR") Service:

Existing SMR allocations should be included in their own pool.

(5) General Category Pool. Frequencies from the general category pool should be accessible to all PLMRS users.

B. Congress Recognizes the Industrial Safety Services

8. Congress recently recognized the unique safety requirements of companies who should be included in an Industrial Safety Service. Congress adopted identical language in the House Budget Bill (H.R. 4291) and the Senate Budget Bill (S. 1357) passed on October 26, 1995 and October 28, 1995, respectively, that addresses this point. The language addressed why an exemption from mandatory spectrum auctions is necessary for entities which perform essential safety functions. The exemption is explained in a House Budget Committee report published October 17, 1995:

The subsection does not permit the use of competitive bidding for public safety radio services, including nongovernment uses that protect the safety of life, health, and property and that are not made commercially available to the public. The committee intends that this exemption includes spectrum available for

internal, noncommercial radio services used by State or local governmental entities or by nongovernmental entities, such as utility, pipeline, petroleum, railroad services under Federal, State, or local laws or regulations, or other codes or standards relating to public health, safety, or security.^{7/}

C. Clearly Defined and Enforceable Criteria Must Be Established for Frequency Coordination Certification

9. API supports the provision of competitive frequency coordination services with the understanding that frequency recommendations retain their advisory character. The Commission is also urged to establish criteria for frequency coordination certification and to mandate the use of effective data processing techniques. This criteria must be clearly defined and enforceable in order to prevent "rogue" coordinators from approving the construction of systems which could cause interference, illegally facilitate the transfer of spectrum allocated for private systems to commercial users, or disrupt or delay the coordination process of other coordinators.

^{7/} Seven-Year Balanced Budget Reconciliation Act of 1995: Report on the Budget, House of Representatives, to Accompany H.R. 2491, October 17, 1995, at p.228.

10. The FCC should be the final arbiter of any disputes concerning interpretations and violations of this criteria. Additionally, all PLMRS users would benefit from a mechanism which provides for swift and sure enforcement procedures.

III. CONCLUSION

11. The service consolidation should be accomplished by the creation of up to five pools: Industrial Safety Service, Emergency Response Safety Service, Non-Commercial Radio Service, Specialized Mobile Radio Service, and General Category. The unique position of the Industrial Safety Service has been recognized by Congress. Many of the systems, for example, operated by Industrial Safety Service companies are subject to Department of Transportation, Department of Energy, and other governmental regulations which require the operation of specialized, high-reliability, redundant mobile radio communication systems. These Industrial Safety Service systems need coordination in their own pool. Any criteria for the certification of frequency coordinators must be comprehensive and prudently selected. Standards for frequency coordinators should be enacted to ensure a uniform quality of coordination service and to prevent potentially hazardous interference and chaos.

These standards must be easily decipherable and subject to swift enforcement by the Commission.

WHEREFORE THE PREMISES CONSIDERED, the American Petroleum Institute respectfully submits the foregoing Supplemental Comments and strongly urges the Federal Communications Commission to proceed in this matter in a manner fully consistent with the views expressed herein.

Respectfully submitted

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